IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 23307 of 1999

Between:

V.Prabhakar Rao, S/o.Late Vinayaka Rao,

Aged 52 years. Occ: Sheristedar,
Senior Civil Judge Court, Adilabad, R/o.Asifabad, Adilabad Dist.

..... PETITIONER

AND

1 The District and Sessions Judge
Adilabad District Adilabad.

2 The Addl. District Judge
Adilabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue notice, call for records and quash the proceedings made in Proc.Dis.No.3688/99/Admn., dt.1-10-1999 on the file of District and Sessions Judge, Adilabad, by issuing a WRIT of CERTIORATI or any other appropriate writ or order or direction as the Hon'ble Court deems fit and proper.

Counsel for the Petitioner: MR.M.JAYANTH KUMAR

Counsel for the Respondent Nos. 1 and 2.: MR.C.V.NAGARJUNA REDDY,
Advocate on record.

The Court made the following Oral Order: (per Sri Devinder Gupta, CJ)

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Challenge by the petitioner is to the proceedings of the District and Sessions Judge, Adilabad issued in Dis. No. 3688/99/Admn., dated 1.10.1999, holding the petitioner responsible for missing of Air Cooler and calling upon him to pay a sum of Rs.2,000/- for the loss caused by him.

Report was submitted by the Additional District & Sessions Judge, Adilabad against the petitioner who then was working as Head Clerk in the Office of the Additional District & Sessions Judge, Adilabad. It was stated in report that one Desert Cooler was supplied by the District Judge, Adilabad to the Additional District & Sessions Judge, Adilabad on 3.4.1996. The petitioner who was working as Head Clerk at that time, had obtained orders in the furniture register against the item as “condemned” and such orders were obtained by him after receipt of transfer orders by the then Presiding Officer from Adilabad Station. But, thereafter, the Air Cooler was found missing. During the inspection by the High Court, it was pointed out that Air Cooler

was missing. Explanation of the petitioner was called for. But, the petitioner had not submitted his explanation. A preliminary enquiry was ordered on 8.12.1998 into the matter. On receipt of the enquiry report, a show cause notice was issued to the petitioner on 15.12.1998 calling for his explanation. Petitioner submitted his explanation to the said show cause notice on 23.12.1998 stating that cooler was supplied to Additional District Judge's Court, Adilabad and in view of the bad condition of the cooler, as per the direction of the then Presiding Officer he had obtained orders on 3.4.1996 in the furniture register that cooler is to be condemned. He also obtained an endorsement in the register to that effect. It was further stated that the Cooler was in the quarters of the Additional District & Sessions Judge, Adilabad at that time and it was available till his transfer and he was not aware as to what happened to the cooler thereafter. Therefore, he is not responsible for missing of the cooler. Such explanation was found to be vague and unsatisfactory and the District & Sessions Judge, Adilabad held in his order dated 1-10-1999 that if the cooler was not serviceable and deserves condemnation, an office memo ought to have been put up along with the required technical certificate so that it could have been surrendered to the District Court, Adilabad. It was not so done and a peculiar procedure was adopted by the petitioner by taking endorsement "as condemned" in the furniture register from the then Additional District and Sessions Judge, Adilabad in a hurried manner.

In case when petitioner was transferred and he obtained an endorsement in the register that the cooler was to be condemned, it was but necessary for the Officer at that time to ensure that that article is available or not. The enquiry was conducted after the official had left the place. As such, the petitioner could not have been made responsible for the value of the cooler though he had committed an irregularity in obtaining orders in the furniture register stating that the cooler was in condemned stage and by not putting proper technical report. But at the time of his transfer, it was but necessary for the Officer at that time to have ensured that such cooler was

available. Therefore, the impugned order dated 1.10.1999 of the District and Sessions Judge, Adilabad holding the petitioner responsible for the loss of cooler is not sustainable and is liable to be set aside.

The writ petition is accordingly allowed and the impugned order is set aside. No costs.

DEVINDER GUTPA,CJ

DATE: 8th July, 2004

G.ROHINI,J

Pnb

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta,

the Chief Justice on this the 8th day of July,

two thousand and four.

REGISTRAR

To

1 The District and Sessions Judge
Adilabad District, Adilabad.

2 The Addl. District Judge,
Adilabad.

3. Two C.D. copies